

P-17180B

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

ORDER

Application 24865B, Permit 17180B

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 17180B was issued to Edward F. Norman and Doris B. Norman on March 27, 1984, pursuant to Application 24865B.

Permit 17180B was subsequently assigned to The Moshin Vineyards, Inc. on May 31, 1989.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on February 1, 2000.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time. Public notice of the request for extension of time was issued on April 14, 2000 and no protests were received.
4. The SWRCB has determined that the petition for extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

Complete application of the water to the authorized use shall be made by
December 31, 2010.

(0000008)

2. An endangered Species term shall be added to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: SEP - 6 2001

STATE WATER RESOURCES CONTROL BOARD

David R. Bering
for Chief, Division of Water Rights

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
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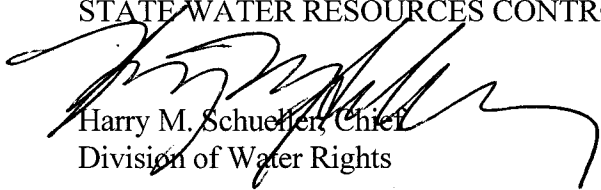
2. An endangered Species term shall be added to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: AUG 10 2000

STATE WATER RESOURCES CONTROL BOARD



Harry M. Schueler, Chief
Division of Water Rights

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

In the Matter of Permit 18121, Application 25461

Excelsior Management Corporation

ORDER APPROVING EXTENSION OF TIME AND AMENDING THE PERMIT

SOURCE: (1) Denniston Creek tributary to Pacific Ocean
(2) Unnamed Stream tributary to Denniston Creek
COUNTY: San Mateo

WHEREAS:

1. Permit 18121 was issued to Half Moon Bay Properties, Inc. on December 1, 1980, pursuant to Application 25461.

Permit 18121 was subsequently assigned to Excelsior Management Corporation on January 11, 1993.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on February 14, 2000.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time. Public notice of the request for extension of time was issued on April 14, 2000 and protest issues have been resolved.
4. The SWRCB has determined that the petition for extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT Permit 18121 IS AMENDED TO READ AS FOLLOWS:

1. Condition 9 of the permit be amended to read:

Complete application of the water to the authorized use shall be made by December 31, 2010.

(0000009)

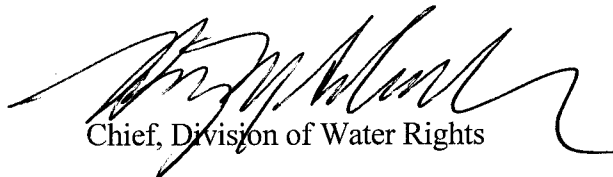
2. Permit 18121 is amended to include the following Endangered Species condition.

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

Dated: OCT 24 2000

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 24865B PERMIT 17180B LICENSE _____

ORDER TO CORRECT POINT OF DIVERSION
AND PLACE OF USE AND APPROVE A
NEW DEVELOPMENT SCHEDULE AND
AMEND THE PERMIT

WHEREAS:

1. Permit 17180B was issued to Edward F. Norman and Doris B. Norman on March 27, 1984 pursuant to Application 24865B.
2. Permit 17180B was subsequently assigned to The Moshin Vineyards, Inc.
3. A correction is needed to conform the description of the point of diversion as shown on the USGS (7.5') quadrangle map-Guerneville.
4. A request to correct the description of the place of use has been filed with the State Water Resources Control Board. The correction for the place of use is needed to conform the description to the change in ownership.
5. The Board has determined that said correction of the point of diversion and place of use will not initiate a new right nor operate to the injury of any other lawful user of water.
6. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
7. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
8. Permit Condition 11 pertaining to the continuing authority of the Board should be updated to conform Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 2 of the permit regarding the description of the point of diversion be corrected to read:

North 100 feet and East 1,150 feet from the SW corner of Section 29, T8N, R9W, MDB&M; being within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section. Also described as California Coordinate System of Zone 2, North 296,000 and East 1,746,000.

2. Condition 4 of the permit regarding the description of the place of use be corrected to read:

7 acres within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29, T8N, R9W, MDB&M and
2.2 acres within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 29, T8N, R9W, MDB&M

3. Condition 7 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1994 (0000008)

4. Condition 8 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1995 (0000009)

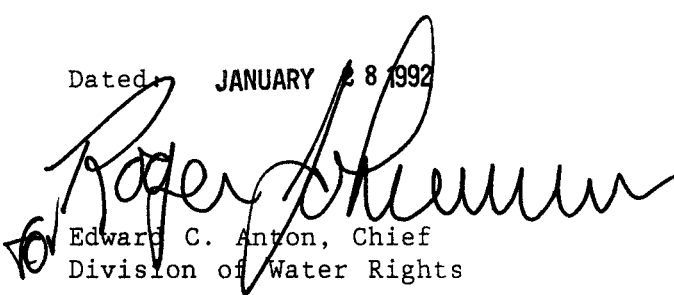
5. Condition 11 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated, JANUARY 28 1992


Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
~~THE RESOURCES AGENCY~~
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17180B

Application 24865B of Edward F. Norman and Doris B. Norman

1524 Dana Avenue, Palo Alto, California 94303

filed on August 26, 1975, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Russian River (underflow)

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridan
1. North 100 feet and East 1,300 feet from SW corner of Section 29	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	29	8N	9W	MD
2. North 600 feet and East 1,500 feet from SW corner of Section 29	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	29	8N	9W	MD

County of Sonoma

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridan	Acres
Frost Protection						
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	29	8N	9W	MD	18.2
	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	30	8N	9W	MD	5
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	32	8N	9W	MD	3
					Total	26.2

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 2.7 cubic feet per second by direct diversion from April 1 to June 30 of each year for frost protection. The maximum amount diverted under this permit and/or in combination with Permit 17180A for all uses shall not exceed 61 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be completed by December 1, 1987. (0000008)

8. Complete application of the water to the authorized use shall be made by December 1, 1988. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

14. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue.

(0000025)

15. For the protection and preservation of fishlife and the maintenance of water-related recreational uses, permittee shall divert only when the flow in the Russian River exceeds 125 cubic feet per second and only at a rate not exceeding said excess, ceasing all diversion when the flow in the river is 125 cubic feet per second or less. River flows shall be measured at the nearest U. S. Geological Survey gaging station on the river.

(0140068)

16. Availability of water for appropriation under this permit during the critical period of July 1 through October 31 is dependent upon water remaining available under the 10,000 acre-foot per annum allocation of water from Coyote Valley Reservoir (Lake Mendocino) for use in the Russian River in Sonoma County. If subsequent studies show that the above-mentioned allocation has been fully used before use is completed under this permit, a license shall be issued only for the amount of water, if any, which has been put to use under this permit and which is included in the allocation.

(0000081)

11-22-89 asg to The Moshin Vineyards, Inc.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MARCH 27 1984

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash

Chief, Division of Water Rights